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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,314	10/19/2001	Jason T. Griffin	555255012227	7213

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EXAMINER

OSORIO, RICARDO

ART UNIT	PAPER NUMBER
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2673

DATE MAILED: 04/02/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,314

Applicant(s)

GRIFFIN ET AL.

Examiner

RICARDO L OSORIO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 6-13 is/are allowed.
6) ☒ Claim(s) 14-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by McLoone et al (US 2002/0158844).

Regarding claim 14, McLoone teaches of a thumbwheel input device (Fig. 3, reference character 10. This device can be accessed with the thumb) characterized by: a wheel (Figs 3, reference character 40) having a first axis of rotation whereby a first input is generated by rotation of the wheel about the first axis (page 3, paragraph 36, lines 6-12); and, a holder (Fig. 17, reference character 258) supporting the wheel in a rest position in which the wheel protrudes from the device housing in the inclined orientation (see Fig. 2, reference character 30. The wheel 30 has an inclined orientation) and further supporting the wheel for movement pivotally about a second axis from the rest position to an actuated position (page 6, paragraph 52, lines 4-9); and a switch responsive to pivotal movement of the wheel from the rest position to the actuated position (pages 3-4, paragraph 36, lines 11-22. Note that the blades of the encoder wheel periodically obstruct the light beam when the wheel is rotated. This corresponds to a switch).

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Regarding claim 15, McLoone further teaches of the holder supporting the wheel for movement pivotally about the second axis from a first angle of inclination in the rest position to a second, lesser angle of inclination in the actuated position (page 6, paragraph 52, lines 4-9).

Regarding claim 16, McLoone further teaches of the switch being a tactile switch supported on the holder for movement with the wheel pivotally about the second axis (Fig. 8, reference character 72, and page 4, paragraph 40, lines 11-13).

Allowable Subject Matter

4. Claims 6-13 are allowed.

Response to Arguments

1. Applicant's arguments filed 11-12-2003 have been fully considered but they are not persuasive.

A holder (Fig. 17, reference character 258) supporting the wheel in a rest position in which the wheel protrudes from the device housing in the inclined orientation (see Fig. 2, reference character 30. The wheel 30 has an inclined orientation) and further supporting the wheel for movement pivotally about a second axis from the rest position to an actuated position (page 6, paragraph 52, lines 4-9).

See rejection of claims 14-16 above.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricardo L. Osorio whose telephone number is (703) 305-2248. The examiner can normally be reached on Mon-Thu from 7:00 AM-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala, can be reached at 305-4938.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231


or faxed to: (703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ricardo L. Osorio
Examiner
Art Unit: 2673

RLO
April 1, 2004


BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600